

Archer MSAs

Announcement 2005-12

PURPOSE

Sections 220(i) and (j) of the Internal Revenue Code provide that if the number of Archer Medical Savings Account (Archer MSA) returns filed for 2003 or a statutorily specified projection of the number of Archer MSA returns that will be filed for 2004 exceeds 750,000, then February 1, 2005, is a “cut-off” date for the Archer MSA pilot project. The Internal Revenue Service (IRS) has determined that the applicable number of Archer MSA returns filed for 2003 is 60,832 and that the applicable number of Archer MSA returns projected to be filed for 2004 is 56,492 (after reduction in each case for statutorily specified exclusions, such as the exclusion for previously uninsured taxpayers). Consequently, February 1, 2005, is not a “cut-off” date and 2004 is not a “cut-off” year for the Archer MSA pilot project.

BACKGROUND

The Health Insurance Portability and Accountability Act of 1996 added section 220 to the Code to permit eligible individuals to establish Archer MSAs under a pilot project effective January 1, 1997. The pilot project, as amended by The Working Families Tax Relief Act of 2004 (WFTRA) § 322, has a scheduled “cut-off” year of 2005, but may have an earlier “cut-off” year if the number of individuals who have established Archer MSAs exceeds certain numerical limitations. Trustees’ reports for Archer MSAs established from January 1, 2004 through June 30, 2004 were due no later than January 3, 2005. IRS is required to publish a determination of whether 2004 is a “cut-off” year no later than February 1, 2005. See sections 220(i) and (j) as amended by WFTRA; Ann. 2004-82, 2004-45 I.R.B. 834.

If a year is a “cut-off” year, section 220(i)(1) generally provides that no individual will be eligible for a deduction or exclusion for Archer MSA contributions for any taxable year beginning after the “cut-off” year unless the individual (A) was an active Archer MSA participant for any taxable year ending on or before the close of the “cut-off” year, or (B) first became an active Archer MSA participant for a taxable year ending after the “cut-off” year by reason of coverage under a high deductible health plan of an Archer MSA-participating employer.

Section 220(j)(2)(A) provides that the numerical limitation for 2004 is exceeded if the number of Archer MSA returns filed on or before April 15, 2004, for taxable years ending with or within the 2003 calendar year, plus the Secretary’s estimate of the number of Archer MSA returns for those taxable years which will be filed after April 15, 2004, exceeds 750,000. For this purpose, section 220(j)(2)(A) provides that a tax return is an Archer MSA return for a taxable year if any exclusion is claimed under section 106(b) or any deduction is claimed under section 220 for that taxable year. Section 220(j)(2)(B) provides, as an alternative test, that the numerical limitation for 2004 is also exceeded if

the sum of 90 percent of the Archer MSA returns for 2003 plus the product of 2.5 and the number of Archer MSAs for taxable years beginning in 2004 that are established during the portion of 2004 preceding July 1 (based on reports by Archer MSA trustees and custodians), exceeds 750,000.

Under section 220(j)(3), in determining whether any calendar year is a “cut-off” year, the Archer MSA of any previously uninsured individual is not taken into account. In addition, section 220(j)(4)(D) specifies that, to the extent practical, all Archer MSAs established by an individual are aggregated and two married individuals opening separate Archer MSAs are to be treated as having a single Archer MSA for purposes of determining the number of Archer MSAs.

A total of 66,015 tax returns reporting an excludable or deductible contribution to an Archer MSA for the 2003 taxable year were filed by April 15, 2004. Of this total, 15,513 taxpayers were reported as being previously uninsured. It has been estimated that an additional 13,220 tax returns reporting Archer MSA contributions for the 2003 taxable year have been or will be filed after April 15, 2004, including 2,890 taxpayers who were previously uninsured. Accordingly, it has been determined that there were 79,235 (66,015 plus 13,220) Archer MSA returns for 2003. Of this total, 18,403 (15,513 plus 2,890) were for taxpayers reported as being previously uninsured. As a result, 60,832 (79,235 minus 18,403) Archer MSA returns count toward the applicable statutory limitation for 2004 Archer MSA returns of 750,000.

Based on the Forms 8851 filed on or before January 3, 2005 by Archer MSA trustees and custodians, it has been determined that 4,062 taxpayers who did not have Archer MSA contributions for 2003 established Archer MSAs for 2004 during the portion of 2004 preceding July 1. Of this total, 3,362 taxpayers were reported by trustees and custodians as previously uninsured, and therefore are not taken into account in determining whether 2004 is a “cut-off” year. In addition, 3 taxpayers were reported by trustees and custodians as excludable from the count because his or her spouse also established an Archer MSA. Accordingly, the applicable number of Archer MSAs established from January 1, 2004 through June 30, 2004, is 697 (4,062 minus (3,362 plus 3)). The alternative limitation for 2004 (90 percent of the applicable number of Archer MSA returns for 2003 plus the product of 2.5 and the number of applicable Archer MSAs established from January 1, 2004 through June 30, 2004) is 56,492 (90 percent of 60,832 plus 2.5 multiplied by 697), which is less than the statutory limit of 750,000. Thus, 2004 is not a “cut-off” year for the Archer MSA pilot project by reason of either the 2004 Archer MSA returns test of section 220(j)(2)(A) or the alternative test of section 220(j)(2)(B) of the Code.

Questions regarding this announcement may be directed to Elizabeth Purcell in the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) at (202) 622-6080 (not a toll free number).